

N.D.A.G. Letter to Eckroth (Jan. 17, 1986)

January 17, 1986

Honorable Anthony G. Eckroth
Representative
1701 Second Street N.E.
Mandan, ND 58554

Honorable Walter A. Meyer
Senator
700 Old Red Trail
Mandan, ND 58554

Dear Representative Eckroth and Senator Meyer:

Thank you for your recent letter regarding the referral of a county job development authority.

The referral of a county job development authority is governed by N.D.C.C. § 11-11.1-01 which provides in part:

11-11.1-01. JOB DEVELOPMENT AUTHORITY - BOARD OF DIRECTORS' MEMBERS QUALIFICATIONS. The board of county commissioners, by resolution, may create a job development authority for the county,. . ..If the authority is created, the question of discontinuing the authority may be placed on the ballot at the next regular election by petition signed by electors of the county equal in number to ten percent of the votes cast in the county for the office of governor in the last general election. The question to discontinue the authority requires a majority of the electors voting on the question for passage. (Emphasis supplied).

The above underscored sentences constitute the entire provision of the law which details the referral of a county job development authority. Even though the legislature failed to prescribe the form of a county job development authority referral petition, the legislative intent is clear as to what information must be contained in the petition. The petition should be in substantially the following form:

REFERENDUM PETITION

We, the undersigned qualified voters of Morton County, hereby refer to a vote of the people of Morton County the July 2, 1985, resolution adopted by the Morton County Commissioners which provided for the creation of the Morton County Job Development Authority and a property tax of four mills to fund the job development authority.

Month Signature of Residential City, State
Day, Qualified Address
Year Voter

1. _____
2. _____

N.D.C.C. § 1-02-02 requires that words used in any statute are to be understood in their ordinary sense. "[N]ext regular election" is defined as a usual election rather than a special election. See The American Heritage Dictionary of the English Language, 1096 (New College Edition 1982). Therefore, it is my opinion that the term "next regular election," as used in N.D.C.C. § 11-11.1-01 refers to either the June primary or the November general election .

It is my further opinion that the referral petition should be filed with the Morton county auditor since he serves as the county administrator of elections pursuant to N.D.C.C. § 16.1-01-01(4).

Pursuant to the election provision of N.D.C.C. Title 16.1 the absolute filing deadline with the secretary of state or county auditors is 55 days prior to an election. This deadline allows the secretary of state and the county auditors sufficient time in which to have the election ballots printed.

Therefore, it is my further opinion that these petitions should be filed 55 days before the June primary or November general election. The filing deadline for the June 10, 1986 primary would be April 16, 1986, at 4:00 p.m. See also N.D.C.C. § 1-01-50, pertaining to the filing of petitions and the one-year limit on the circulation of petitions.

Once the referral petition has been filed, the county auditor should review both the form of the petition and the information provided by the petition signers. The county auditor may wish to compare the information provided by petition signers to the information contained in pollbooks from prior elections. In order to determine the validity of the signatures contained in the petition, the county auditor may wish to verify a random sampling of the signatures by the use of questionnaires, postcards, telephone calls or personal interviews.

As the county administrator of elections, the county auditor is responsible for drafting the ballot language for the referred resolution. The ballot language should be approved by the county state's attorney. See N.D.C.C. §§ 16.1-01-02, 16.1-06-09. The ballot question should be in substantially the following form:

Referred Resolution of
Morton County Commissioners No.

The referred resolution of the Morton County Commissioners provides for the establishment and funding of a Morton County Job Development Authority.

Ballot Title:

As adopted by the Morton County Commission on July 2, 1985, this referred resolution provides for the creation of the Morton County Job Development Authority and provides for a county property tax of four mills to fund the job development authority.

A "yes" vote means you approve the resolution providing for the creation and funding for a Morton County Job Development Authority.

A "no" vote means you reject the resolution providing for the creation and funding for a Morton County Job Development Authority.

Shall said referred resolution be approved?

Yes _____

No _____

Sincerely,

Nicholas J. Spaeth

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